

Regulation of Personal Vaporizer Sales to Children in Indonesia

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Abstract

Globalization is inevitable today, and in this era all aspects of human life have changed. This is marked by easy access to communication, trade, transportation and others. However, the rapid development of technology can also be used as a gap for irresponsible people in carrying out their actions, one of which is narcotics trafficking through the help of technology and online media. And with this case also involves the role of many parties and with this method the perpetrators can also minimize the level of arrest by the authorities. Research that aims to increase public awareness to be more vigilant in seeing everything, the method used in this research is qualitative by sourcing from books, journals, legal regulations and internet websites related to the research theme. Then with this research it is hoped that it will become a reference material for law enforcers in preventing and sanctioning every party involved and in this case it also requires seriousness from the Government so that similar cases do not recur in the future.

Keywords: *Globalization; Trafficking of Narcotics; Law Enforcement.*

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Introduction

We have now entered the 21st century which is marked by the phenomenon of globalization, this phenomenon has a definition that is a spread of the impact of many countries in the world, ranging from cultural aspects, science and technology, and philosophical understanding in each country which also penetrates into other countries. Meanwhile, according to Scholte, globalization is the development of international relations, in this case each country maintains its own identity but becomes increasingly dependent on each other. With this globalization, it can actually have various impacts, one of which is in the aspect of trade which is increasingly wide open and goods from various countries are easy to obtain. However, the easy access to trade at this time certainly does not rule out the possibility of illegal goods being sold easily, one of these goods is drugs. This is an abbreviation of narcotics, psychotropic substances and other addictive materials. Drugs are drugs, materials or substances and are not classified as food if drunk, smoked, inhaled, swallowed or injected, and affect the work of the brain and often cause dependence.

Furthermore, in this modern era, because the world of trade has developed and is accompanied by the rapid development of the internet, many parties take advantage of this opportunity to trade narcotics online. Usually the perpetrators use e-commerce applications as a means for syndicates to deal drugs secretly to consumers in other forms so as not to be suspicious. In addition, the development of social media can also be the main door to the spread of narcotics, especially with the rise of sensitive content related to narcotics itself, which can certainly cause social symptoms among the younger generation. Especially with the presence of social media such as Facebook, Twitter, and YouTube, which are very loved by the younger generation and can be a means to carry out actions such as sales, distribution

and even the recruitment process by narcotics dealers, and with transactions through social media actually saves more time and this is very difficult to detect by the authorities. This has happened in Jember where the Jember Resort Police have uncovered the guise of narcotics trafficking with marijuana across provinces through social media and sending it to orders through a delivery service, the perpetrator named Safri Ramdani was caught by the police in front of the village office in Wuluhan District Jember and in this case the police have found 18.74 grams of marijuana in the package received by the perpetrator.

Furthermore, with the development of technology in this era, narcotics trafficking has indeed become a serious threat to the stability of the country, and from here, regulations related to narcotics crimes must be promoted as soon as possible considering that this kind of crime has also crossed national borders and jurisdiction. In addition, the methods usually used by the perpetrators are other drugs, food products, drinks and cosmetics with the hope that buyers will not realize that the products they buy contain narcotics. With the existence of online drug trafficking, this is a challenge for the government and law enforcement in Indonesia, because the pattern of the game they carry out is very different compared to selling directly, so it takes seriousness for law enforcement in enforcing the rules in order to provide a deterrent effect for every community involved in this online drug trafficking action.

Research Methods

Based on the construction of the title raised, this type of research is legal research, because the object of this research examines the law conceptualized as norms or rules that apply in the form of written positive legal norms that are more directed at applicable laws and regulations. This research approach uses a normative juridical research approach. The normative juridical approach according to Soerjono Soekanto yaity legal research conducted by examining library materials or secondary data as a basis for research by conducting a search for regulations and literature related to the problem under study.

The nature of the research used in this research is descriptive research, where this research describes and describes the complete legal situation that occurs in society using a normative juridical research approach. This research is also literature-based which focuses on analyzing primary legal materials and secondary legal materials. Then the materials are arranged systematically, studied and conclusions are drawn in relation to the problem under study, namely in terms of case studies of perpetrators who keep animals protected by the state and are associated with the provisions of applicable laws and regulations regarding criminal law enforcement for perpetrators who keep animals protected by the state. Data sources used in a study are divided into 2 (two) types, namely primary data and secondary data. In normative / juridical legal research, the data sources are data sourced from Islamic law and secondary data, namely as follows :

- a. Data sourced from legal regulations and other international treaties that have relevance to the criminal act of online drug trafficking
- b. Secondary data, namely library data which includes publication documents on the law including: text books, legal dictionaries. Legal journals and comments on court decisions. Secondary data consists of:
 - 1) Primary legal materials, namely binding legal materials such as: Law Number 35 of 2009 concerning Narcotics and other International Conventions such as the United Nation's Single Convention on Narcotic Drugs 1961, United Nations Convention Against Illicit Traffic in National Drugs And Psychotropic Substance 1998 and others that have relevance to the theme of writing discussed at this time

- 2) Secondary legal materials, namely legal materials that provide explanations of primary legal materials, such as: literature books or reading materials, works from the general public, other scientific writings related to research problems;
- 3) Tertiary legal materials, namely materials that provide guidance and explanation of primary and secondary legal materials, such as: Legal dictionaries, encyclopedias, Indonesian dictionaries, English dictionaries, newspapers, the Internet and so on that are related to the research theme.

This research uses data collection tools in the form of documentation studies by only analyzing written legal materials such as: related literature books, case studies raised and related laws and regulations and other data sources. As for library studies (library research) which are carried out in 2 (two) ways, namely Online, namely library research (library research) which is carried out by searching through internet media in order to collect secondary data needed in the research in question.

Data analysis in this study uses qualitative analysis, namely where the data obtained in library research on legal materials will be described and connected in such a way that it can be presented in a more systematic form of writing in order to achieve the desired target in the form of criminal law enforcement for online drug trafficking offenders. Processing of legal materials is carried out deductively, namely drawing conclusions from a general problem for concrete problems at hand. Furthermore, existing legal materials will be analyzed to see how the provisions of Indonesian positive law and international conventions in relation to regulating law enforcement for traffickers and efforts to prevent narcotics through online platforms.

Results And Discussion

1. The Law Applicable In Online Narcotics Trafficking

Actually, the rule of law regarding online narcotics trafficking does not yet exist and has not been ratified by the Government of Indonesia, but the act of online narcotics trafficking can still be reviewed from the provisions of Law Number 35 of 2009 concerning Narcotics, especially in articles 111-112 it has been explained that every person who without rights or against the law owns, stores, controls, provides class I Narcotics can be punished with a criminal offense for at least 4 years or no later than 12 years, with a fine of at least Rp. 800,000,000,000 (eight hundred million rupiah), and a maximum of Rp. 8,000,000,000 (eight billion rupiah). Then in article 114 paragraph 1, it is also stated that every person who without rights or against the law offers for sale, sells, buys, receives, becomes an intermediary in the sale, purchase, exchange, or delivery of Class I Narcotics, shall be punished with life imprisonment or imprisonment for a minimum of 5 (five) years and a maximum of 20 (twenty) years and a fine of at least IDR 1,000,000,000.00 (one billion rupiah) and a maximum of IDR 10,000,000,000.00 (ten billion rupiah). Meanwhile, anyone who is classified as a producer or distributor of narcotics can be subject to a maximum sentence of 15 years in prison or life and death and a fine of 100 million to 10 billion rupiah in accordance with the provisions of Article 113 of Law Number 35 of 2009 concerning Narcotics.

From the provisions of the law it is clear that narcotics crime is an extraordinary crime, therefore the sanctions given to them must also be severe in order to create a deterrent effect. However, before determining the suspect, there are several things that must be considered, namely regarding sufficient and valid evidence and at least two pieces, the evidence can be in the form of witness testimony, expert testimony, letters, instructions and testimony from the defendant in accordance with the provisions of Article 183 of the Criminal Procedure Code. The next regulation is the Regulation of the Minister of Health of the Republic of Indonesia

Number 9 of 2017 concerning Pharmacies, in the provisions of Article 21 paragraph 1 it is stated that every pharmacist is obliged to serve prescriptions in accordance with his professional responsibilities and expertise based on the interests of the community, then in Article 21 paragraph 3 it is explained that if the prescribed drug is not available at the pharmacy, the pharmacist can replace the drug after consulting with the doctor who wrote the prescription for drug selection. When viewed from the provisions contained in the two articles, pharmacies must see the provisions of a doctor's prescription if they want to sell drugs classified as narcotic and psychotropic types, on the other hand, still from the same provisions that the sale of drugs made by pharmacies through online media is prohibited, especially if the drug contains narcotics.

Presidential Instruction No. 3/2017 on Improving the Effectiveness of Food and Drug Control is another regulation that can be used to evaluate online drug trafficking cases. According to the ninth provision, the president must give orders to the Ministry of Communication and Information Technology to block websites that promote and sell illegal drugs and food online. This should be done based on recommendations from relevant agencies. The regulation also only addresses the sale of pharmaceutical products containing illegal and unlicensed drugs. It does not matter whether the website is registered or not. Thus, the website can sell medicines of various types, as long as they are not illegal, such as those containing narcotic substances.

Then regarding the current era of globalization, of course, technology has a very large role in narcotics trafficking, especially with this, the actors who play behind this illicit business certainly not only come from within the country, but also from abroad. Not only that, international narcotics crime has a modus operandi that is divided into three operating areas consisting of departure countries, transit countries and marketing destination countries. As a goal to prevent this kind of crime, this international narcotics countermeasures policy was made and has been contained in the United Nations Single Convention on Narcotic Drugs 1961 which aims to.

1. Create one international convention that is acceptable to the countries of the world and can replace the regulations regarding international control of drug abuse that are separated in 8 forms of international treaties.
2. Improve the ways of controlling the circulation of narcotics and limit their use exclusively for the purposes of medicine and scientific development; and
3. Ensure international cooperation in drug control to achieve the above objectives.

Furthermore, the single Convention was amended on March 6 to 24, 1972 in Geneva, Switzerland which resulted in a protocol and which was opened for signing on March 25, 1972, including by Indonesia. On the other hand, changes were not only made to amend the provisions of the 1961 Single Convention, but these efforts also included Indonesia's efforts to ratify the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances into the regulations of Law of the Republic of Indonesia Number 7 of 1997. In this case the Government has considered that every party including the global community needs to take part in eradicating illicit drug trafficking including through online media. Furthermore, Indonesia has also ratified the provisions of the 1971 Psychotropic Convention into Law Number 8 of 1976 and not only that because Indonesia has also passed national regulations regarding narcotics through the provisions of Law Number 9 of 1976. And at this time Indonesia also has legal provisions that are still valid related to narcotics, namely Law Number 35 of 2009, in this case the provisions contained in the latest law have explained related acts such as importing, exporting, producing, planting, storing, distributing and using narcotics which if each of these acts is carried out without the permission and supervision of the authorities as contained in this law then this can be categorized as a criminal act of abuse and illicit trafficking of narcotics.

2. Law Enforcement Strategies to Overcome Online Narcotics Trafficking

In overcoming cases of online narcotics trafficking actually requires thoroughness from law enforcement itself, some strategies that can be carried out by law enforcement in overcoming this problem are by strengthening international cooperation, in this case international cooperation is considered very important because online narcotics trafficking cases are certainly carried out by involving actors between countries. Therefore, law enforcers from various countries are obliged to share information, intelligence and resources with the aim of identifying, targeting and arresting perpetrators and dismantling narcotics trafficking networks carried out by involving cross-border actors. Furthermore, law enforcement can also analyze intelligence to monitor and understand trends, patterns and methods that are usually used by drug traffickers online, this effort also involves monitoring websites, forums and social media and other platforms that have links to drug trafficking. The data and information obtained from intelligence analysis can help identify perpetrators, understand network structures and direct law enforcement measures.

Other strategies that can be carried out by law enforcement officials, especially the police sector, in overcoming online drug trafficking consist of guidance, prevention and prosecution. Regarding coaching efforts can be done through counseling and socialization to the community regarding the impact of drug use and penalties for narcotics crimes to every educational institution so that every community, especially the younger generation, can understand that drugs are bad and so that they are not easily provoked by the use of these illicit goods, then the police can also install banners containing information related to the dangers of drugs and penalties for dealers. Then regarding preventive efforts can be done by conducting a process of monitoring the activities of young people who show suspected drug use and accommodating information about complaints from the surrounding community through community service centers. And the last is repressive efforts, this effort can be done by arresting drug dealers and users, revealing and taking firm action against each perpetrator in accordance with the provisions contained in the Narcotics Law, conducting the investigation and investigation process and not forgetting that these efforts will not succeed if there is no community participation, therefore community participation needs to be increased in order to prevent and minimize the negative impacts caused by narcotics abuse.

In addition, groups that are vulnerable to the adverse effects of online narcotics sales are the younger generation including children, so it is necessary to make a special protection effort, this has been stated in the provisions of Article 59 paragraph 1 of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, such protection can be done through efforts:

- a. prompt treatment, including treatment and/or physical, psychological and social rehabilitation, as well as prevention of diseases and other health problems;
 - b. psychosocial assistance during treatment until recovery;
 - c. provision of social assistance for children who come from underprivileged families;
- And
- d. providing protection and assistance in every judicial process.

Conclusion

From the explanation that has been explained previously, it can be concluded that in this era of globalization it can indeed be a blessing for every human being, this is because in this era every communication, transaction, trade and transportation can be accessed very easily. However, globalization can also have a negative impact, especially in the aspect of trade, namely the rise of narcotics trafficking using online media. Furthermore, the

syndicates who carry out this action actually know that if they take the step of distribution through online it will minimize the movement of the police and the benefits obtained can be much greater. Therefore, it takes the ability and courage of law enforcement officials and the Indonesian government to take steps to prevent similar actions from happening again in the future, considering that narcotics crime, especially through online media, will certainly be very detrimental to the community, especially the younger generation who often access the internet.

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